



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL

Bill J. Crouch
Cabinet Secretary

BOARD OF REVIEW
State Capitol Complex
Building 6, Room 817-B
Charleston, West Virginia 25305
Telephone: (304) 558-2278 Fax: (304) 558-1992

Jolynn Marra
Interim Inspector General

June 14, 2021

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.: 21-BOR-1572

Dear Ms. [REDACTED]:

Enclosed is a copy of the decision resulting from the hearing held in the above-referenced matter.

In arriving at a decision, the Board of Review is governed by the Public Welfare Laws of West Virginia and the rules and regulations established by the Department of Health and Human Resources. These same laws and regulations are used in all cases to assure that all persons are treated alike.

You will find attached an explanation of possible actions that may be taken if you disagree with the decision reached in this matter.

Sincerely,

Angela D. Signore
State Hearing Officer
Member, State Board of Review

Enclosure: Appellant's Recourse
Form IG-BR-29

cc: Robin Taylor, Department Representative

**WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES
BOARD OF REVIEW**

██████████,

Defendant,

v.

Action Number: 21-BOR-1572

**WEST VIRGINIA DEPARTMENT OF
HEALTH AND HUMAN RESOURCES,**

Movant.

DECISION OF STATE HEARING OFFICER

INTRODUCTION

This is the decision of the State Hearing Officer resulting from an administrative disqualification hearing for ██████████, requested by the Movant on April 29, 2021. This hearing was held in accordance with the provisions found in Chapter 700 of the West Virginia Department of Health and Human Resources' Common Chapters Manual and Federal Regulations at 7 CFR § 273.16. This hearing was convened on June 9, 2021.

The matter before the Hearing Officer arises from a request by the Movant for a determination as to whether the Defendant has committed an Intentional Program Violation (IPV) and should therefore be disqualified from the Supplemental Nutrition Assistance Program (SNAP) for twelve (12) months.

At the hearing, the Movant appeared by Robin Taylor, Repayment Investigator, Investigations and Fraud Management (IFM). The Defendant failed to appear. The Department witness was sworn and the following documents were admitted into evidence.

EXHIBITS

Movant's Exhibits:

- M-1 West Virginia Department of Health and Human Resources (WV DHHR) Hearing Request Notification
- M-2 Food Stamp Claim Determination
- M-3 Waiver of Administrative Disqualification Hearing, unsigned Benefits Recovery Referral

- M-4 Advance Notice of Administrative Disqualification Hearing Waiver, dated March 25, 2021
- M-5 SNAP Issuance History, dated July 2010 – November 2020
- M-6 Food Stamp Allotment Determination, dated April 23, 2021
- M-7 Household Case Summary
- M-8 WV PATH eligibility system printout of Case Comments, dated August 12, 2019 through March 20, 2020
- M-9 SNAP Application, signed August 19, 2019
- M-10 PRC2, signed January 29, 2020
- M-11 WV DHHR Review Notice/CSLE, signed July 16, 2020
- M-12 Employment Wage Data and Paystubs, signed by [REDACTED] November 06, 2020
- M-13 West Virginia Income Maintenance Manual (WVIMM) §§ 1.2.3.F.2 – 1.2.5

Defendant’s Exhibits:

NONE

After a review of the record, including testimony, exhibits, and stipulations admitted into evidence at the hearing, and after assessing the credibility of all witnesses and weighing the evidence in consideration of the same, the Hearing Officer sets forth the following Findings of Fact.

FINDINGS OF FACT

- 1) The Investigation and Fraud Management (IFM) Unit of West Virginia Department of Health and Human Resources (WVDHHR) alleged an act of Intentional Program Violation (IPV) by the Defendant for receiving SNAP benefits in two (2) states simultaneously for her Assistance Group (AG) resulting in an over-issuance of SNAP and is requesting that she be disqualified from participation in SNAP for a period of twelve (12) months.
- 2) The Defendant was notified of the hearing by scheduling order sent on May 07, 2021, via First Class U.S. Mail. The Defendant failed to appear for the hearing or provide good cause for her failure to do so. In accordance with 7 CFR §273.16(e) (4) and West Virginia Department of Health and Human Resources’ Common Chapters Manual, §740.20, the hearing was held without the Defendant in attendance.
- 3) The Defendant was a recipient of SNAP benefits for a two (2) person AG. (Exhibits M-6 and M-7)
- 4) On May 27, 2020, the Defendant completed a SNAP Application and answered “no” to the question “Have you or anyone in your household received or do you expect to receive SNAP benefits from any other state this month?” (Exhibit M-9)
- 5) The Defendant signed the May 27, 2020 SNAP Application and consented that the information contained was true and correct to the best of her knowledge. (Exhibit M-9)

- 6) On December 28, 2020, the Movant received State of [REDACTED] EPPIC reporting information system data exchange documenting the Defendant's receipt and usage of State of [REDACTED] SNAP benefits. (Exhibit M-10)
- 7) Electronic Benefit Transaction (EBT) histories confirm the Defendant used SNAP benefits issued by the State of [REDACTED] while simultaneously using SNAP benefits issued by the State West Virginia. (Exhibits M-10 and M-11)
- 8) The Defendant has no previous history of Intentional Program Violations (IPVs). (Exhibits M-3 and M-4)

APPLICABLE POLICY

Code of Federal Regulations (CFR) §273.16 provides:

An individual making false or misleading statement, or misrepresenting, concealing, or withholding facts, violating the Food Stamp Program (SNAP), or any State statute for the purpose of acquiring, receiving, possessing, or trafficking of coupons, authorization cards, or reusable documents used as part of an automated benefit delivery system has committed to an Intentional Program Violation (IPV).

West Virginia Income Maintenance Manual (WVIMM) § 1.2.4 Client Responsibility provides, in part:

The client's responsibility is to provide complete and accurate information about his circumstances so that the Worker is able to make a correct determination about his eligibility.

WV IMM § 2.5 provides, in part:

Individuals may only receive SNAP benefits in one county and state at the same time.

WV IMM § 3.2.1.B.1 provides, in part:

Individuals may only receive SNAP from one state in any month. Therefore, individuals who have already received or will receive SNAP in another state are ineligible to be included in a SNAP AG in West Virginia for that same month.

WV IMM § 3.2.1.B.5 provides, in part:

Persons who have been found guilty for an IPV are disqualified as follows: First offense, One-year disqualification; Second offense, Two-year disqualification; and Third offense, permanent disqualification.

WVIMM §§ 6.1-6.1.2 Data Exchanges provides, in part:

Federal Data Hub and Income and Eligibility Verification System (IEVS) are electronic sources that perform data matches to verify types of income/assets. Data exchange information available at application and review may be used by the Worker to evaluate discrepancies in the client’s statement when it disagrees with Hub data.

Information is provided to the Worker through data exchanges. Information obtained through IEVS is used to verify the eligibility of the AG, to verify proper amount of benefits, and to determine if the AG received benefits to which it was not entitled.

WV IMM § 11.2.3.B provides, in part:

IPVs include making false or misleading statements, misrepresenting facts, concealing or withholding information, and committing any act that violates the Food Stamp Act of 1977, SNAP regulations, or any State statute related to the use, presentation, transfer, acquisition, receipt, or possession of SNAP benefits.

The client(s) who is found to have committed an IPV is ineligible to participate in the program for a specified time, depending on the number of offenses committed.

WV IMM § 11.6.1 provides, in part:

A willfully false statement is one that is deliberately given, with the intent that it be accepted as true, and with the knowledge that it is false.

DISCUSSION

Federal regulations define an IPV as making a false statement related to the acquisition of SNAP benefits. To show the Defendant committed an IPV, the Movant must provide clear and convincing evidence that the Defendant intentionally concealed or withheld facts pertinent to her SNAP eligibility.

The Defendant completed an application for SNAP benefits on May 27, 2020, and answered “no” to the question “Have you or anyone in your household received or do you expect to receive SNAP benefits from any other state this month?” The Defendant signed the application and acknowledged the information provided was true and correct; however, she failed to report SNAP benefits received from the State of [REDACTED] on the form or during her interview.

The Movant obtained State of [REDACTED] EPPIC reporting system data exchange information disclosing the Defendant’s receipt and usage of State of [REDACTED] SNAP benefits. Electronic Benefit Transaction

(EBT) histories confirm the Defendant's use of SNAP benefits issued by the State of [REDACTED] while simultaneously using SNAP benefits issued by the State West Virginia.

Federal regulations define an Intentional Program Violation as making a false statement related to the acquisition of SNAP benefits. The Movant established by clear and convincing evidence the Defendant made false statements at the time of application to acquire SNAP benefits she was not entitled to receive, thereby meeting the definition of an IPV.

Pursuant to regulations, individuals found to have committed an IPV through an ADH shall be ineligible to participate in SNAP for a specified time, depending on the number of offenses committed. Because the Defendant had no previous history of IPV disqualification penalties, a first-offense twelve (12) month disqualification penalty should be imposed, beginning in accordance with timelines established in federal regulations.

The Defendant did not appear for the hearing, and as such could not dispute facts presented by the Movant.

CONCLUSIONS OF LAW

- 1) The Movant provided clear and convincing evidence that the Defendant was receiving SNAP benefits in [REDACTED] at the time of her May 2020 SNAP application.
- 2) The Defendant made a false statement by failing to report SNAP benefits received from another state at the time of application, which constitutes an IPV.
- 3) Because the action of the Defendant constitutes an IPV, the Movant must disqualify the Defendant from receipt of SNAP benefits.
- 4) Because the IPV is a first offense, the disqualification period is twelve (12) months beginning July 1, 2021.

DECISION

It is the finding of the State Hearing Officer that the Defendant committed an Intentional Program Violation (IPV). The Defendant will be disqualified from receipt of SNAP benefits for a period of twelve (12) months, beginning July 01, 2021.

ENTERED this ____ day of June 2021.

Angela D. Signore
State Hearing Officer